UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD

GALAXY TOWERS CONDOMINIUM ASSOCIATION

Respondent

and

Case No. 22-CA-030064

LOCAL 124, RECYCLING, AIRPORT, INDUSTRIAL & SERVICE EMPLOYEES UNION Charging Party

RESPONDENT GALAXY TOWERS CONDOMINIUM ASSOCIATION'S CROSS-EXCEPTIONS TO THE ADMINISTRATIVE LAW JUDGE'S DECISION

Submitted by:

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Galaxy Towers Condominium Association

On September 25, 2012, Administrative Law Judge Steven Davis (the "ALJ") issued a decision in the above-captioned case. The Acting General Counsel filed exceptions on November 19, 2012. Respondent Galaxy Towers Condominium Association ("GTCA" or "respondent") hereby submits the following cross-exceptions and brief in support thereof pursuant to Section 102.46 of the National Labor Relations Board's Rules and Regulations.

- 1. The Respondent excepts to the ALJ's finding, at p. 9, line 48, that the Union merely failed to respond to GTCA's contract proposal. (Tr. 92, 1166, 1208, 1280, 1282-83).
- 2. The Respondent excepts to the ALJ's finding, at p. 11, lines 16-18, that GTCA representative Michael Kingman ("Kingman") conceded the Union made a proposal on subcontracting. (Tr. 1305).
- 3. The Respondent excepts to the ALJ's finding, at p. 11, lines 47-51 that the Union made a severance pay proposal of any fixed amount, or that it did so to avoid subcontracting, rather than merely bargaining over its effects. (Tr. 818, 1214, 1330, 1339-40).
- 4. The Respondent excepts to the ALJ's conclusion, at p. 12, lines 1-6, 14-17, that the Union did not acquiesce in GTCA's lawful decision to subcontract and focused solely on bargaining over the effects of that decision. (Tr. 596, 742, 744, 818, 1172-75, 1214, 1284-85, 1304-05, 1310, 1318-22, 1324, 1326-27, 1331; R Ex. 45).
- 5. The Respondent excepts to the ALJ's finding, at p. 12, lines 28-29 and p. 16, lines 33-38, that GTCA insisted that the Union withdraw litigation as a condition precedent to any contract or contract term. (Tr. 1279-82).
- 6. The Respondent excepts to the ALJ's conclusion, at p. 14, lines 17-36, 43-48 and p. 15, lines 18-37 that GTCA violated 8(a)(1) or 8(a)(5) of the National Labor Relations Act (the

- "Act") by refusing to provide certain documents to the Union. (Tr. 50, 744, 750, 757, 1287-88, 1293-94, 1295, 1298-99, 1300-1302, 1319; GC Ex. 45; R Ex. 46).
- 7. The Respondent excepts to the ALJ's conclusion, at p. 15, lines 45-52 and p. 16, lines 1-8, 20-21, 40-42 that no impasse existed on the issue of subcontracting and further excepts to the ALJ's failure to discuss GTCA's offer to postpone the July 9, 2011 vote on subcontracting. (Tr. 742, 744, 818, 1172-74, 1214, 1282-85, 1304-05, 1310, 1318-19, 1326-27, 1330-31, 1339-40; R Ex. 31).
- 8. The Respondent excepts to the ALJ's conclusion, at p. 16, lines 24-31 that impasse could not be reached because GTCA refused to provide certain documents. (Tr. 50, 744, 750, 757, 1287-88, 1293-94, 1295, 1298-99, 1300-1302, 1319; GC Ex. 45; R Ex. 46).
- 9. The Respondent excepts to the ALJ's conclusion, at p. 16, lines 40-42 that Respondent refused to bargain with the Union over the terms of a new contract, unlawfully declared that impasse had taken place, or unlawfully implemented changed contractual terms.¹
- 10. The Respondent excepts to the ALJ's conclusions of law (4), (5), and (6), at p. 21, lines 12-24.
- 11. The Respondent excepts to all of the remedies, at pp. 21-22, which the ALJ has recommended.
- 12. The Respondent excepts to the ALJ's failure to draw an adverse inference against the General Counsel on account of his failure to call Union attorneys Christopher Sabatella and Stephen Goldblatt to testify at the hearing in this matter.

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¹ (See record citations supporting Cross-Exceptions Nos. 1-8).

13. The Respondent excepts to the ALJ's failure to discuss the Division of Advice

Memorandum and its impact on the issue of impasse. (Tr. 312; R Ex. 15).

Dated: December 3, 2012 Respectfully submitted,

/s/ Michael E. Lignowski

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